Article

The Challenge of Defining the Secular

Georgina Clarke and Renae Barker *

Law School, University of Western Australia, Perth 6009, Australia
* Correspondence: renae.barker@uwa.edu.au

Abstract: Judges have long wrestled with the gigantean task of defining religion, with some describing the task as being 'called upon to ponder the imponderable', an impossible task, and even misguided. Despite these sentiments, and comments in almost every legal definition expressing the impossibility of the task, judges have, in fact, been able to come up with numerous legal definitions for religion. These have been applied in myriad circumstances to define the outer limits of the rights and responsibilities of states, religious communities, organisations, and individuals. By contrast, the term secular has rarely been judicially defined. However, it is no-less important in defining the rights and responsibilities of states and their citizens and residents, particularly in light of the number of states that claim, implicitly or explicitly, to be secular. This paper, therefore, (re)examines the definition of the secular as it pertains to the concept of the secular state. It considers the need for a legal definition of the secular with particular reference to constitutional and other legal instruments that include the term. It then examines the difference between the terms secular, secularisation and secularism, noting the often erroneous conflation as well as the inevitable interaction and overlap between these key concepts. Finally, drawing on existing classifications of legal definitions of religion, the paper classifies definitions of the secular into three overarching classifications, namely 'historical', 'substantive' and 'characteristic'.

Keywords: secular state; secularism; legal theory; law and religion; church and state; state and religion; religion

Citation: Clarke, Georgina, and Renae Barker. 2024. The Challenge of Defining the Secular. *Laws* 13: 28. https://doi.org/10.3390/laws13030028

Academic Editors: Patricia Easteal and Silvio Ferrari

Received: 19 January 2024
Revised: 19 April 2024
Accepted: 26 April 2024
Published: 2 May 2024

Copyright: © 2024 by the authors. Licensee MDPI, Basel, Switzerland. This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution (CC BY) license (https://creativecommons.org/licenses/by/4.0/).

1. Introduction

Judges have long wrestled with the gargantuan task of defining religion, with some describing the task as being 'called upon to ponder the imponderable',[1] an impossible task,[2] and even misguided (Freeman 1983). Despite these sentiments, and comments in almost every legal definition expressing the impossibility of the task (Barker 2022), judges have, in fact, been able to come up with numerous legal definitions for religion. These have been applied in myriad circumstances to define the outer limits of the rights and responsibilities of states, religious communities, organisations, and individuals. By contrast, as this paper will discuss, the term secular has rarely been judicially defined.[3] However, it is no less important in defining the rights and responsibilities of states and their citizens and residents, particularly in light of the number of states that claim, implicitly or explicitly, to be secular.

This paper therefore examines the definition of the secular as it pertains to the concept of the secular state. The definition is necessarily a legal one, although definitions from other disciplines will necessarily be examined where they illuminate the legal meaning of the term. The paper is divided into three parts. Part one examines the need for

[1] *Jacques v Hilton*, 569 F Supp 730, 731 (D NJ 1983) (Sarokin J).
[2] *Alvarado v City of San Jose*, 94 F 3d 1223, 1227 (9th Cir 1996).
[3] The authors note that they have primarily considered jurisdictions where English or French is the language of judicial determinations, and acknowledge that judicial consideration may have been given to the term secular in other languages.

a legal definition of the secular with particular reference to constitutional and other legal instruments that include the term. Part two then examines the difference between the terms secular, secularisation and secularism, noting the often erroneous conflation as well as the inevitable interaction and overlap between these key concepts. Finally, part three draws on existing classifications of legal definitions of religion to classify definitions of the secular into three overarching classifications, namely: 'historical', 'substantive' and 'characteristic'. Finally, this discussion concludes by suggesting that none of these definitions can adequately capture the vast breadth of states claiming to be secular.

2. The Secular: Frequently Used, Poorly Understood

While there may be many reasons to define the term secular in the context of the secular state, prime amongst them must be the use of the term in constitutional and other legal instruments. Despite the use of the term 'secular' and the related term 'secularism' in numerous legal instruments, there has been a relative scarcity of judicial consideration of the definition of these twin concepts. This can be contrasted with the much more detailed examination of related concepts such as religion and the separation of state and religion. This section therefore examines a sample of the various legal instruments in which the secular appears before examining rare occasions where courts have proffered an interpretation of the term. These interpretations illustrate that the defining elements of the secular state have rarely, if ever, been comprehensively considered in a judicial context.

2.1. Appearances of the Secular in the Law

While many states lack a legally enshrined identification with religion, and may be considered de facto secular, others constitutionally declare themselves to be secular. Such declarations are not always statements of irreligiosity, but, instead, indicate state attempts not to rationalise decisions according to religious principles (Temperman 2010). At least thirty-three states expressly employ the term secular in their constitutions.[4] The Constitution of the Republic of Côte d'Ivoire, for instance, accentuates a commitment to 'the republican form of Government, as well as the secular character of the state'.[5] Other constitutions implicitly allude to the secular by adopting descriptive clauses that profess neutrality towards religion.[6] The stipulation in Albania's Constitution that the state remain 'neutral in

[4] See Constitution of Angola. 2010, art. 10; Constitution of the Republic of Benin, 2019, art. 2; Loi Constitutionelle No. 072-2015, Portant Revision de la Constitution [Constitutional Law No 072-2015, Revision of the Constitution], *Journal officiel de la République française [J.O.]*, Nov. 5, 2015, art 31; Constitution of the Republic of Burundi, 2018, art. 1; Constitution of the Republic of Cameroon, 1996, art. 2; *Constitution de la République du Tchad 2018* [Constitution of the Republic of Chad 2018], May. 4, 2018, art 1; *Constitution de la République Démocratique du Congo 2005* [Constitution of the Democratic Republic of the Congo 2005], 2005, art 1; *Constitution de la République Démocratique du Congo 2015* [Constitution of the Democratic Republic of the Congo 2015], 2015, preamble, art 1; Loi No. 2016-886 du 8 novembre 2016 Portant Constitution de la République de Côte d'Ivoire [Law No 2016-886 on the Constitution of the Republic of Côte d'Ivoire], *Journal officiel de la République française [J.O.]*, Nov. 8 2016, art 49; La Constitution du 4 Octobre 1958 [French Constitution of 4 October 1958] (Fr.), art 1; *Constitution de la République Gabonaise 1991* [Constitution of the Republic of Gabon 1991], 1991, art. 2, 7; Constitution of the Republic of Guinea, 2010, art. 1; Constitution of the Republic of Guinea-Bissau, 1984, art. 1; Constitution of the Republic of Mali, 1992, preamble, art. 25; Constitution of the Republic of Namibia, 1990, preamble, art. 1; Constitution of the Republic of Rwanda, 2003, art. 4; Constitution of the Republic of Senegal, 2001, art. 1; Constitution of the Republic of the Azerbaijan Republic, 1995, preamble, art. 7; India Const. preamble; Constitution of the Republic of Kazakhstan, 1995, art. 1; Constitution of the Kyrgyz Republic, 1993, art. 1; Constitution of the IVth Republic of Togo, 1992, art. 1; Constitution of Turkmenistan, 1992, preamble, art. 1; Constitution of the Co-operative Republic of Guyana, 1980, art 1; Law of May 17, 1989 On Guarantees of Freedom of Conscience and Belief, No. 29, Item 155, art 10(1) (Poland); Konstitutsiia Rossiĭskoĭ Federatsii [Konst. RF] [Constitution] art. 14(1) (Russ.); Constitution of the Republic of Serbia, 2006, art. 11; Constitution of the Republic of Turkey, Nov. 7, 1982, preamble, art. 2;. Constitution of Nepal, 2015, art. 4; Law on religious organisations, 7 September,1995, s 2 (Latvia); Constitution of the Republic of Fiji, 2013, art. 4; Constitution of the Republic of Ecuador, 2008, art. 1.

[5] Loi No. 2016-886 du 8 novembre 2016 Portant Constitution de la République de Côte d'Ivoire [Law No 2016-886 on the Constitution of the Republic of Côte d'Ivoire], Journal officiel de la République française [J.O.], Nov. 8 2016, preamble, art. 49.

[6] See Constitution of the Slovak Republic, 1992, art. 1; Constitution of the Republic of Mozambique, 2004, art. 12; Constitution of the Democratic Republic of Sao Tome and Principe, 1975, art 8; Constitution of the Republic of

questions of belief and conscience' is notable in this respect.[7] Czech law similarly reflects an ideologically neutral perspective, providing that the state 'may not be bound by either an exclusive ideology' or religion.[8] The Republic of Mozambique also appears to mandate impartiality constitutionally in stating that the 'lay' identity of the state is contingent on the 'separation between the state and religious denominations'.[9] The Lebanese Constitution goes a step further in declaring the political system to be 'established on the principle of the separation of powers' and mandating the 'abolition of political confessionalism' as a national goal.[10]

Moreover, non-establishment clauses preventing governments from pronouncing an official or preferred religion also represent indirect constitutional references to the secular.[11] The classic non-establishment provision is the First Amendment of the United States of America's Constitution, which prevents Congress from making any law 'respecting an establishment of religion or prohibiting the free exercise thereof'.[12] The Constitution of Australia echoes the American example by precluding the Commonwealth from 'establishing any religion … or … prohibiting the free exercise of any religion'.[13] Other states adopt many other iterations of non-establishment, including provisions proscribing the recognition of any of the following: state religion,[14] official religion,[15] state church,[16] state-sponsored religion[17] or national religion.[18]

In addition to constitutional provisions, domestic legislation may include the terms secular or secularism. It is beyond the scope of this paper to include a full survey of such instances; however, legislation concerning education provides an apposite example in this regard. In a number of jurisdictions, the state mandates that education in some or all educational institutions must be secular. For example, in Australia, legislation in all states and territories, excluding Queensland (Bryne 2014),[19] explicitly requires public education to

Albania, 1998, art 10; Charter of Fundamental Rights and Basic Freedoms, 1992, art. 2(2) (Czech Republic); Lei n.º 16/2001 de Liberdade Religiosa de 22 de junho [Act no. 16/2001 on Religious Freedom], art. 4 (Portugal).

[7] Constitution of Albania, 1998, art 10.

[8] Charter of Fundamental Rights and Basic Freedoms, 1992, art. 2(2) (Czech Republic).

[9] Constitution of the Republic of Mozambique, 2004, art. 12.

[10] Constitution of Lebanon, 2004, preamble.

[11] U.S. Const. amend. I; *Australian Constitution* s 116; Constitution of the Federal Democratic Republic of Ethiopia, 1995, art. 11(2); Gambia (The)'s Draft Constitution, 2020, art. 88(5)(b), 153(2)(b); Constitution of the Republic of Liberia, 1986, art. 14; Constitution of Nigeria (1999), art. 10; Daehanminkuk Hunbeob [Hunbeob] [Constitution] art. 20 (S. Kor.); Constitution of the Republic of Seychelles 1993, art. 21(6); Constitution of the Republic of Uganda, 1995, art 7; Constitution of the Federated States of Micronesia, 1978, art. IV § 2; Constitution of the Republic of Palau, 1979, art. IV § 1; Const., (1987), art. III, § 5 (Phil.); Constitution of the Republic of Estonia 1992, art. 40; *Grundgesetz für die Bundesrepublik Deutschland* [Basic law for the Federal Republic of Germany], May 8 1949, Bundesgesetzblatt, art. 137(1); Constitution of the Republic of Lithuania, 1992, art. 43; Constitution of the Republic of Moldova, 1994, art. 5(2); Konstitutsiia Rossiĭskoĭ Federatsii [Konst. RF] [Constitution] art. 14(1) (Russ.); Constitution of the Republic of Serbia, 2006, art. 11; C.E., B.O.E. n. 311, Dec. 29, 1978, art. 16((3) (Spain); General Act on Religious Liberty art. 1(3) (B.O.E. 1980, 177) (Spain); Constitution of Ukraine, 1996, art. 35; Constituição Federal [C.F.] [Constitution] art. 19(1) (Braz.); Political Constitution of the Republic of Nicaragua, 1987, art. 14; Constitution of the Republic of Tajikistan, 1994, art. 8; Constitution of Paraguay, 1992, art. 24.

[12] U.S. Const. amend. I.

[13] *Australian Constitution* s 116.

[14] Constitution of the Federal Democratic Republic of Ethiopia, 1995, art. 11(2); Constitution of the Republic of Lithuania, 1992, art. 43; Constitution of the Republic of Albania, 1998, art 10; Daehanminkuk Hunbeob [Hunbeob] [Constitution] art. 20 (S. Kor.); C.E., B.O.E. n. 311, Dec. 29, 1978, art. 16(3) (Spain); Constitution of Nigeria (1999), art. 10; Constitution of the Republic of Uganda, 1995, art 7;

[15] Political Constitution of the Republic of Nicaragua, 1987, art. 14; Constitution of Paraguay, 1992, art. 24.

[16] *Grundgesetz für die Bundesrepublik Deutschland* [Basic law for the Federal Republic of Germany], art. 137(1); Constitution of the Republic of Estonia, 1992, art. 40.

[17] Constitution of the Republic of Serbia, 2006, art. 11; Konstitutsiia Rossiĭskoĭ Federatsii [Konst. RF] [Constitution] art. 14(1) (Russ.); Constitution of Ukraine, 1996, art. 35.

[18] Constitution of the Republic of Palau, 1979, art. IV § 1;

[19] Queensland is the only Australian state to have no secular clause in its education statues, having removed every occurrence of the word after the passing of the *State Education Amendment Act 1910*.

be secular.[20] The South Australian Act states that 'education … provided by Government schools … preschools and children's services centres are to be secular in nature'.[21] The Victorian legislation posits this requirement in broader terms, dictating that 'education in Government schools must be secular and not promote any particular religious practice, denomination or sect'.[22] Other statutes outline restrictions surrounding religious instruction, thereby indirectly acknowledging the secular. For instance, the provision within Western Australian statute excludes the promotion of 'any particular religious practice, denomination or sect' within the teaching and curriculum of Government schools.[23] These explicit and implicit secular clauses do not culminate in a prohibition on religious education. Rather, they impose an obligation that religious instruction should be of a general nature, insofar that it does not preference any specific religion.[24]

French legislation also emphasises the secular, owing to the cultural value ascribed to *laïcité* as a pedagogical concept and tenant of France's national identity. Indeed, a secular, or *laïque*, distance placed between pupils and their own beliefs in public schooling has been described as the 'cradle' through which children become enlightened citizens (Scott 2007; Stasi 2003; Chirac 2003; Jansen 2013). Accordingly, secular education is a constitutionally entrenched duty of the state: '*l'organisation de l'enseignement public gratuit et laïque* à *tous les degrés est un devoir de l'Etat*'.[25] Elsewhere, the respect of '*la liberté de conscience et de la laïcité*' is also specified as a learning outcome of public education.[26]

The very existence of these provisions, and others which are similar, requires that the terms secular and secularism be defined in order to clearly articulate the outer limits of the rights and responsibilities they impose. Yet, as will be discussed below, these terms have rarely been judicially considered.

2.2. Judicial Interpretations of the Secular

In contrast to the ample allusions to the secular in written law, cases that consider the meaning of the term are few and far between. At the domestic level, the Queensland Supreme Court in Australia has defined the term simply as the act of being 'disassociated with religion'.[27] The Supreme Court of Canada has also reflected on the secular as it relates to state dispensations: 'the secular state is neutral [and] refrains from espousing "values" that undermine or go beyond what is necessary' for equal civic participation.[28] These considerations, however, relate to particular enactments and,[29] accordingly, are limited to their particular jurisdiction's legislative instrument and circumstances.

At the supra-national level, the European Court of Human Rights (ECtHR) has interpreted the secular in its application of the European Convention for the Protection of Hu-

[20] *Education and Children's Services Act (No. 19) 2019* (SA), s 7(4)(g); *Education Act (No. 8) 1990* (NSW), s 30; *Education Act 2015* (Tas), s 125; *Education and Training Reform Act (No. 24) 2006* (Vic), ss 1.2.2(2)(a)(i), 2.2.10(1); *Education Act (No. 30) 2004* (ACT), s 28(1).

[21] *Education and Children's Services Act* (SA), s 7(4)(g).

[22] *Education and Training Reform Act* (Vic), s 2.2.10(1).

[23] *School Education Act 1999* (WA), s 68.

[24] *School Education Act 1999* (WA), s 68; *Education Act* (Vic), ss 2.2.10(2)-(4); *Education Act* (ACT), s 28(2).

[25] The organisation of free and secular public education at all levels is a duty of the state [Tr author, who is fluent in written and spoken French]. See La Constitution du 4 Octobre 1958 [French Constitution of 4 October 1958], preamble.

[26] The respect of freedom of conscience and secularism [Tr author, who is fluent in written and spoken French]. See Loi No. 2013-595 du 8 juillet 2013 d'orientation et de programmation pour la refondation de l'école de la République [Law No 2013-595 on guidance and programming for the recasting of the schools of the Republic] *Journal officiel de la République française [J.O.]*, July. 8, 2013, art 41 (Fr.).

[27] *Daniel v. Leeper* [1944] St R Qd 167, 176.

[28] *Law Society of British Columbia v. Trinity Western University* [2018] 2 SCR 293, 333.

[29] The definition of the Queensland Supreme Court occurred in the context of its interpretation of 'secular' in section 1 of *The Religious Educational and Charitable Institutions Act 1861*; the definition of the Supreme Court of Canada was provided in the context of its application of sections 1 and 2(a) of the *Canada Act 1982* (UK) c 11, sch B, pt I.

man Rights and Fundamental Freedoms ('the Convention').[30] Although the ECtHR rarely considers the term directly, patterns in its adjudication reveal normative assumptions of the Court's understanding of the term (Gülalp 2010). Notably, the ECtHR appears to assume that 'secular' is synonymous with government neutrality and a formally imposed distance between the state and religious identity of any kind. In *Refah Partisi (The Welfare Party) v Turkey* the Court noted

> *the state's role as the neutral and impartial organiser of the exercise of various religions, faiths and beliefs … [and that this duty] is incompatible with any power on the state's part to assess the legitimacy of religious beliefs … [and] requires the state to ensure mutual tolerance*.[31]

The ECtHR later reiterated the discordance of religious and government matters through its endorsement of the definition of a secular regime adopted by the Constitutional Court of Turkey.[32] This definition perceived religion as being 'shielded from a political role' to facilitate its determination according to individual conscience.[33] Such an interpretation ultimately informed the ECtHR's finding that Turkey's regulation of religious attire did not violate the Convention and was conducive to the preservation of the secular nature of universities.[34]

In comparable cases in France concerning the regulation of, and punishment for, the wearing of religious attire in certain public spaces, the ECtHR has also found against violation of the Convention.[35] In *Ebrahimian v France*, for example, the ECtHR noted that secularism and neutrality are 'fundamental' French principles and, in such a case, it is possible to favour their preservation over the applicant's freedom of religion.[36] Through this legal reasoning, it may be inferred that the ECtHR's interpretation of the secular is contingent upon a separation of religion and state, or separationism, which is akin to the constitutional arrangement in France (Barker 2024; Witte and Pin 2021).[37] Contrary to this inference, more recently, the ECtHR has found against violation in cases concerning the display of the Christian crucifix in public schools on the basis of its status as a cultural and identity-linked symbol (Zucca 2013; Lobeira 2014).[38] However, this decision took place in the context of several articles of the Convention that were not relevant in *Ebrahimian*.[39] In any event, such speculation as to the ECtHR's interpretation of the secular is based on implicit statements of the Court and, therefore, is not a practical legal definition of the term.

3. The Nexus of Terms Surrounding the Secular

The elusive meaning of the secular is exacerbated by the term's polysemic nature (Blankholm 2014; Taylor 2009) and close relation to the concepts of 'secularisation', 'secularism', and, to a lesser extent, 'post-secularism' (see Beckford 2012). These concepts are often employed interchangeably in various disciplinary contexts (Casanova 2011; Sandberg 2014; Baubérot 2013).[40] As outlined above, constitutional and other legal instruments as well as the judiciary use all three terms, together and separately, and at times interchangeably. However, each term has its own specific application and erroneous conflation can

---

30 The ECtHR's consideration of the secular generally takes place in relation to Articles 9 and 11 of Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, 213 UNTS 222 ('the Convention').

31 Refah v. Turkey, App. No. 41340/98, 41342/98, 41343/98 and 41344/98, Eur. Ct. H.R. 267 (2003).

32 Leyla v. Turkey, App. No. 77774/98, Eur. Ct. H.R. 39 (2005).

33 See note 32.

34 Leyla v. Turkey, App. No. 77774/98, Eur. Ct. H.R. 39 (2005)116, 123.

35 See, eg., Ebrahimian, App No. 64846/11; Dogru, App No. No. 27058/05.

36 Ebrahimian, App No. 64846/11, 66-67, 70.

37 Recent cases from the Court of Justice of the European Union that are factually similar to those decided by the ECtHR increasingly result in different outcomes or reasoning.

38 See Lautsi & Ors v. Italy, App. No. 30814/06, 18 March 2011), [57].

39 See, eg., Article 2(1) of the Convention.

40 While not the subject of analysis in this paper, it has also been suggested that 'secularisation' is erroneously employed as an all-encompassing term, thus highlighting the need to distinguish between its cognate and related terms (see Baubérot 2013).

lead to confusion. These terms should be seen as interrelated, but not interchangeable. A secular state may or may not have adopted secularism. Similarly, a secular state may or may not be going through or have gone through a process of secularisation.

3.1. *Defining the Secular*

The secular, the focus of this paper, derives its meaning from the interplay between thought and normative factors shaping the external world. As such, a distinction can be drawn between the conceptual and contextual meaning of the term. Broadly speaking, the conceptual meaning of the secular refers to its status as a modern epistemic category. This category is generically employed in reference to the Christian distinction between two mutually constituted worlds; the secular-temporal world sphere pertaining to the physical age, and the religious-sacred world relating to an eternal age (Chavura and Tregenza 1996).[41] Historically, these two 'spheres' were not always separated as such, but could be distinguished depending on how religion intersected with prevailing ideas of reason, utility and morality. Therefore, the conceptual meaning of the secular as a binary classification of reality is well-established; however, its composite spheres need not be diametrically opposed. Rather, as observed by José Casanova, the term secular is 'used to construct, codify, grasp and experience a realm *differentiated*, as opposed to polarised, from "the religious"'.

Conversely, the contextual meaning of the secular relates to its mutability in accordance with the environment and dominant understanding of rationality (Chavura and Tregenza 1996; Sandberg 2014). From this perspective, the interpretation of the secular is contingent on social circumstances, including the evolution of religious interaction, the presence or absence of majority religious group(s), and the political system (Barker 2018). In this way, societies can select from, reflect, and experience various versions of the secular commensurate with the chosen state–religion relationship and the manner by which its constituent norms are codified in law, institutionalised and internalised.

Perry Dane's (2018) notion of 'religion-state dispensations' encapsulates this complex interaction between socio-legal variables that inform the broad variety of approaches to the secular. Dane employs the term to refer to 'the sorts of norms of religious establishment and disestablishment, separation and interaction, and institutional, financial and expressive relationships' between government and religion. Such dispensations form a continuum of relations ranging from government prohibition of religion to state support of conditions favourable to religion (Benson 2000). What remains in dispute is how and where the boundaries between religion and government ought to be drawn for a state to be considered secular.

In this regard, 'the religious' and 'the secular' have been envisaged as potentially overlapping circles on a two-dimensional plane (State 2013). Owing to the assumption that the secular is merely the 'other' of the religious, the two circles are often perceived as being perfectly coextensive (Benson 2000). Casanova (2011) highlights this paradoxical state of affairs whereby 'the secular … encompass[es] increasingly the whole of reality, in a sense replacing the religious.' According to this view, the secular is the social substratum that is left behind once the religious disappears (Taylor 2007). However, the possible arrangements between the secular and the religious extend far beyond the former subsuming the latter—the two realities can be distinct and overlap in various ways (State 2013; Hastings 1976). By presupposing that the secular is the natural and universal reality, the concept itself has eluded comprehensive explanation (Casanova 2011), which further accentuates the elusiveness of the term.

3.2. *Defining Secularisation*

According to its original theological meaning, secularisation related to the Western Christian process of making 'worldly' (van Deer 2007; Asad 1993; Kippenberg 2007; Cantwell

[41] For a critique of the assumption that the Western Christian secular/religious classification is a universal system of general application, see (Beyer 2006).

Smith 1963; Arnason 2003; Smith 1988; Mazusawa 2005; McCutcheon 1982; de Vries 2008),[42] for instance, when monastic property was secularised following the Protestant Reformation (Casanova 2011).[43] Contemporary theses of secularisation,[44] by contrast, understand the term to refer 'to actual or alleged historical patterns of transformation and differentiation' of the religious and secular functional spheres accompanying modernisation (Casanova 2011; Quack 2017; Casanova 2002; Casanova 2009). Early definitions perceive such societal development as being part of a broader teleological and progressive transformation from the archaic and morally dangerous 'sacred' to the modern and rational 'secular' (Wilson 1987; Cox 1965).

At the core of traditional conceptions of secularisation is the universal and evolutionistic decline of religious influence in contemporary civilization (Quack 2017). Such decline leads to the emancipation of society from the religious sphere as religious agencies 'become marginal to the operation of the social system' (Ahdar 2000). Max Weber (1958), for instance, famously described secularisation as 'the disenchantment of the world', characterised by a growing displacement of magical symbolism by rational, empirical thought. Similarly, Emile Durkheim argued from a social Darwinian perspective that modern society is exemplified by a heightened individualisation that cannot sustain religion (Durkheim 1993, 1995; Grabb 1990; Casanova 1999). Another notable example is Auguste Compte's enumeration of a 'positive' phase of mankind, which supersedes its religious and metaphysical phase (Quack 2017).

However, these theses of decline have been subject to criticism and revision (Casanova 2009; Ireland 1988; Frame 2009; Beckford 1993).[45] This criticism highlights the failure of these theories to account for the ongoing importance of religion in a privatised world and the function of religious organisations in conforming to popular culture (Martin 2005; Casanova 2009). The rise of diverse global fundamentalisms can also be seen as a resistance to the imposition of universal models of secularisation (Almond 2003). As a result, secularisation has been conceptualised more generally as a process of religious change (Sandberg 2014). David Martin (2005) suggests that this process comprises a series of '"Christianisations", as opposed to a unilateral process, which is followed or accompanied by recoils'.[46] This definition can be broadened beyond Christian denominations by replacing 'Christianisations' with 'increased religiosity.' It follows that secularisation does not inherently involve an outcome of mutual exclusion between the sacred and secular realities. Rather, the processes of secularisation and religious transformation are ongoing and inextricably connected global phenomena.[47]

3.3. *Defining Secularism*

Secularism encompasses a range of worldviews distinguished by a commitment to the legal-constitutional distinction between religion, religious institutions, and the state (Frame 2009; Quack 2017). State secularism does not necessarily reject religion, but denotes an intention to not justify behaviour on religious grounds (Temperman 2010).[48] Conceptions of secularism may be consciously or subconsciously held (Casanova 2011). Conscious conceptions, or 'secular worldviews' (Temperman 2010), constitute substantive forms of secularism that are ideological in nature and expressed as normative state projects or projects of modernity (Frame 2009; Casanova 2009, 2011; Hastings 1976). The Constitution of the Peo-

[42] European colonial and religious encounters are essential to understanding this process.

[43] See also the definition of 'secularise' and 'secularisation' in Bailey (1731); for a general discussion on the Western Christian origins of the word 'secularisation' as a theological category, see Asad (2003).

[44] For an explanation of the different theses of secularization, see Casanova (1994, 2008).

[45] For criticism of the differentiation theory of secularisation specifically, see (Tilly 1984).

[46] For another alternative theory of secularisation that explains religious revival in many parts of the world, see (Casanova 2011).

[47] For an acknowledgement of the varied religious dynamics that can accompany secularisation, see (Casanova 2003).

[48] See further Casanova's (2009) notion of secularism as statecraft and Taylor's (2007) notion of the "immanent frame".

ple's Republic of China, for instance, specifies Marxism–Leninism as the official ideology by which the nation 'concentrate[s] its efforts on socialist modernisation' (Smart 1992).[49] When secularism forms an 'epistemic knowledge regime' in this way (Casanova 2009), it is comparable to religion insofar as it helps 'human beings conceive of themselves, and act in the world'.

The diverse variations of secularism are located on a spectrum and distinguished according to the adopted model of legal-constitutional separation between government and religion (Hurd 2008; Taylor 2007; Kosmin and Keysar 2007).[50] This circumstance is reflected in descriptions of secularism as oscillating between 'hard' and 'soft' polarities (Kosmin and Keysar 2007). Hard secularism is grounded in political theories that assume 'that religion is either an irrational force or a non-rational form of discourse that should be banished from the … public sphere' (Casanova 2011). This separation of religion from politics is purported to derive either from the veracity of faith or the falsity of religious creed (Wieseltier 1991). Weberian and Hobbesian notions of the transformation of consciousness epitomise hard secularism (Kosmin and Keysar 2007). These theories prophesised that in the light of reason, society would abandon faith as intellectually unreliable (Kosmin and Keysar 2007). Karl Marx, by contrast, perceived religion as an ideological tool exploited for political control, as encapsulated in his description of religious conviction as the 'opiate of the masses' (Kosmin and Keysar 2007). Similarly, Richard Dawkins (1993) analogises theistic belief systems with an incurable 'virus of the mind'. This portrayal emphasises humankind's vulnerability to infection by doctrines that are characterised, as Dawkins contends, by minimal truth and logic.

Hard secularism also manifests in the law of several states. Communist countries are archetypal examples, owing to the Marxist–Leninist belief in religious epistemological inferiority and the capacity of scientific progress to eliminate religion (Kosmin and Keysar 2007). The state apparatus is thus instrumentalised to enforce secularism, while simultaneously bringing about the demise of religion. During the Cold War, for instance, the Constitution of the People's Socialist Republic of Albania stipulated that the state 'recognise[d] no religion' and 'support[ed] the atheist worldview [to] ingrain' the scientific perspective.[51] The Socialist Republic of Vietnam, which explicitly sanctions state control over religion, provides a more contemporary illustration.[52]

Antithetically, soft secularism upholds the separation of religion from politics based on an indifference to the truth or falsity of religion (Kosmin and Keysar 2007; Bradney 2010; Rivers 2012). This paradigm is characterised by a desire for government to accommodate religious behaviour in the public domain (Kosmin and Keysar 2007). As such, the soft secularist is neither an atheist nor a principled materialist (Kosmin and Keysar 2007). Soft secularism is reflected in the constitutional position of religion in the United Kingdom (UK) (Kosmin and Keysar 2007). The UK is generally considered to have two established churches; the Church of Scotland in Scotland and the Church of England in England.[53] Although the functions conferred by establishment have become largely symbolic, this arrangement represents significant legal recognition of these religious institutions (Holdsworth 1920; Bogdanor 1995).[54] The protection afforded to the freedom of religion is also indicative of the accommodation of religious behaviour envisaged by soft secularism (Holdsworth 1920).[55]

49 中华人民共和国宪法 [Constitution of the People's Republic of China], preamble (1984).

50 For examples of philosophical–historical assumptions permeating most theories of secularism (notwithstanding later revisions), see (Habermas [1984] 1987, 1989, 2002, 2008; Rawls 1971, 2009; Ackerman 1980).

51 Constitution of the People's Socialist Republic of Albania, 1976, art 37.

52 HIếN PHÁP, [Constitution] art 112(9) (1992) (Vietnam); *Ordinance of the Standing Committee of the National Assembly regarding Religious Belief and Religious Organisations*, No. 21/2004/PL-UBTVQH11 (15 November 2004) (Vietnam); *Governmental Decree*, No. 22/2005/ND-CP (1 March 2005) (Vietnam).

53 The *Church of Scotland Act 1921* (UK) established the Church of Scotland. The *Supremacy Act 1534* (UK) established the Church of England.

54 See also *Aston Cantlow Parochial Church Council v. Wallbank* [2004] 1 AC 546, 555 (Lord Nicholls).

55 See also Human Rights Act, 1998 (Eng).

In addition, French historian and sociologist Jean Baubérot asserts that the meaning of secularism in France, or *laïcité* in the French language, evades consensus. *Laïcité* has its origins in the *Déclaration des Droits de l'Homme et du Citoyen* and its guarantee of religious freedom to the extent that its 'manifestation does not disturb public order'.[56] The principle is enshrined by the law of 1905[57] and the Constitution,[58] which explicitly assign separate domains to religion and State.[59] Baubérot suggests that the polarization between right-wing and left-wing politics at the time the 1905 law was adopted can explain the interpretational conflict surrounding the term *laïcité* in the present. The concept is described as having four interrelated indicative factors: freedom of conscience, equal rights, separation of political and religious spheres and state neutrality (Baubérot 2013). Notably, Baubérot (2015) contends that there is no specific French model of secularism, but, rather, different representations of the concept according to the particular social actors of the relevant time. To this end, he expounds seven ideal types of *laïcité* in the context of different stages, or *seuils*, in which they developed and shifted along the political spectrum.

The first and earliest version is an 'anti-religious' *laïcité* which, by combatting the influence of the Catholic religion, favours the emancipation of citizens. Liberty of conscience is not extended to include freedom of religion according to this version of *laïcité*, owing to the oppression it is perceived to exert on the individual. Separation of government and religion solely serves to 'suppress the social influence of religion.' The second version, Gallican *laïcité* (from Gaule, France), is not hostile towards religion, but does seek to restrict it by placing it under state control (Baubérot 2015).[60] It emerged when French kings claimed primacy over the Pope. This form of *laïcité* rejects the accommodation of religious practices and emphasizes the neutrality of the individual (but not the state). The third form, individualist separationist *laïcité*, derives from the anti-cleric rhetoric of Ferdinand Buisson, an opponent of the article in the 1905 law protecting the internal integrity of religious organisations. It promotes the strict separation between state and religion and state neutrality towards religious organisations and practices. Conversely, the fourth 'inclusive separatist *laïcité*' promotes this separation without alienating religious organisations, and values diversity and broad freedom of conscience (Baubérot 2015).

Baubérot (2015) then outlines three modern forms of *laïcité*. The fifth, open *laïcité*, advances the friendly confrontation between ideas and religious doctrines. Its insistence on the social utility of religions diminishes state neutrality and encourages state collaboration with religions. The sixth, 'identity *laïcité*' values only one religion—Christianity. This form of *laïcité* was furthered by Nicolas Sarkozy and is currently espoused by the Front National. It is seen as the 'cultural marker of France' and seeks to conserve France's national identity against the perceived affront posed by religious communitarianism, Islam and immigration.[61] It is not distinguished by a separation of state and religion, but, instead, extensive neutrality requirements imposed on the individual and an inequality of citizens on the basis of religion. Finally, 'Concordat *laïcité*' is found in Alsace-Moselle, where the 1905 law is not implemented and four Judeo–Christian religions are officially recognized (Baubérot 2015). In this version, both separation and neutrality are only partial.

[56] La Déclaration des Droits de l'Homme et du Citoyen [The Declaration of the Rights of Man and the Citizen], Aug. 26, 1789, art. 10 (Fr.); for a discussion of the origins of laïcité, see (Lefebvre 1998).

[57] Loi du 9 décembre 1905 concernant la séparation des Eglises et de l'Etat. [Law of December 9, 1905, concerning the separation of Church and State], *Journal officiel de la République française [J.O.]*, Dec. 9. 1905, art. 1 (Fr.); see generally (Baubérot 2015).

[58] La Constitution du 4 Octobre 1958 [French Constitution of 4 October 1958], art 1 (Fr.).

[59] Observatoire de la laïcité, 'La Laïcité Aujourd'hui', République Française, accessed 12 June 2023, https://www.gouvernement.fr/la-laicite-aujourd-hui-note-d-orientation-de-l-observatoire-de-la-laicite#:~:text=La%20la%C3%AFcit%C3%A9%20est%20un%20principe,personnelle%20avec%20la%20coh%C3%A9sion%20sociale; Temperman, *State-Religion Relationships*, 112–113.

[60] The political scientist Phillipe Portier (2023) has argued that secularism in France is characterized by strict separation of the political and religious spheres once more, such that the country is heading in a 'neo-Gallican' direction.

[61] For a discussion of how *laïcité* has evolved following the progressive crystallisation of security-based discourses and the perceived threat of Islam in contemporary France, see (Portier 2018).

Similarly, the multi-dimensional nature of secularism is recognised by Canadian philosopher Charles Taylor (2007), who suggests three distinct meanings of the term. Secularism in Taylor's first sense refers to the complete removal of religion from the public sphere, which requires 'the norms and principles [society] follow[s]' to be 'emptied' of religious references (Taylor 2007). This removal does not imply a decrease in religious affiliation, but, rather, the relegation of ideological expression to the private sphere (Barker 2015). The strict separation of governmental and religious matters is embodied by secularism in France (Barras 2017).[62] The respective prohibitions on religious symbols in public schools (Scott 2007; Stasi 2003) and the wearing of the Islamic head-and-body veil in public spaces[63] epitomise this distinction.

Taylor's second form of secularism involves a reduced measurable level of religious belief and practice. This reduction is not necessarily accompanied by an absence of state support for religion (Taylor 2007). Although this interpretation of secularism has no direct legal expression, the progressive decrease in religious belief in New Zealand portrays this process. Statistics from New Zealand's most recent census in 2018, for instance, demonstrate that almost half the population (48.2 percent) identify as having no religion, compared to the 41.9 percent and 34.6 percent in the 2013 and 2006 censuses, respectively (Losing our religion 2019; Abbey 2010; Griffiths 2011).[64] This form of secularism says little about the formal legal arrangements between state and religion. At least theoretically, states with relatively low levels of religiosity may not necessarily be secular states, although one would anticipate that public pressure would lead such states to move towards Taylor's first or third form of secularism, as well.

Finally, Taylor's third form of secularism is one in which religious belief and practice, 'even for the staunchest believer' is but one option for the state and its individual citizens. (Taylor 2007). Accordingly, a state may be secular, notwithstanding a comparatively high level of interaction with religion. Religiously plural states, including Australia, can be viewed as conforming with this version of secularism (Barker 2015). In this regard, Section 116 of the Australian Constitution prohibits the federal government from establishing a state religion.[65] Nevertheless, religion assumes a highly visible public role (Barker 2021). Australia's constitutionally valid federal education policy, which grants funding to religious schools on a non-discriminatory basis,[66] is illustrative of such interaction (How Are Schools Funded in Australia? 2021). At least according to this iteration of secularism, it appears that the defining factor distinguishing a non-secular state from a secular one is the endorsement (or lack thereof) of select religion(s) or worldview(s). Consequently, while Taylor's third definition could include Australia, it would exclude the UK, due to its established Church.

4. Classifying the Secular

As should be evident from the forgoing discussion, even when the secular, secularism and secularisation are applied correctly to their separate and distinct definitional functions, there is considerable difference in meaning for each term depending upon the circumstances and purpose for which the term is being employed. In terms of a legal definition of

---

[62] See also Ebrahimian v. France, App. No. 64846/11, Eur.Ct. H.R., 15 (2015); Dogru v. France, App. No. 27058/05, Eur. Ct. H.R. 17–18 (2009).

[63] *Loi No. 2010-1192 du 11 octobre 2010 interdisant la dissimulation du visage dans l'espace public* [Law No 2010-1192 prohibiting the wearing of clothing concealing one's face in public spaces] *Journal Officiel De La Republique Francaise [J.O.] [Official Gazette of France]*, October 11 2010, p. 18344.

[64] The findings from Australia's 2021 Census exhibit similar changes in reported religious affiliation see (Religious affiliation in Australia 2022) Australian Bureau of Statistics, last modified 4 July 2022, https://www.abs.gov.au/articles/religious-affiliation-australia.

[65] See note 13.

[66] *A-G (Vic); ex rel Black v Commasdvonwealth* (1981) 146 CLR 559 (Austl.) upheld the constitutional validity of this policy; on contrast, in 2012 and 2014, the Australian High Court ruled against the constitutionality of providing state funding for a National Chaplaincy Program on the basis that the federal government had implemented the wrong constitutional mechanism: Williams v Commonwealth (2012) 248 CLR 156 (Austl.); Williams v Commonwealth (No 2) (2014) 252 CLR 416 (Austl.).

the secular, we have drawn upon the existing attempts to classify the legal definitions of religion. Traditionally, legal definitions of religion have been divided into three categories: functional, substantive and analogical (Durham and Scharffs 2010; Durham and Sewell 2006; Barker 2022). Taking inspiration and drawing from these classifications, we have classified definitions of the secular into three overarching classifications, namely 'historical', 'substantive' and 'characteristic.' We have further divided the substantive category into hard separationist and soft separationist.

Numerous fields, from legal professionals to theologians, employ the term 'secular' or are otherwise influenced by the concept. Definitions of the secular vary according to these contexts, and, by consequence, their efficacy is not readily transferable (Barker 2018). Abhijit Naskar's (2020) definition of the secular as the state of being 'civilised', as opposed to being 'governed by animals', for instance, is useless to a judge attempting to determine whether a state or its actions are secular. Any construction of the secular must therefore account for its definitional purpose. The proceeding discussion, therefore, considers existing definitions of the secular to distil their commonalties and shed light on the meaning of the term. These approaches are examined in turn to conclude that no current elucidation of the secular accommodates the diversity of states encompassed by this term. While we draw upon definitions from numerous disciplines and perspectives, our analysis is necessarily a legal one, as we seek to identify a meaning for the secular that can be applied judicially to the secular state.

4.1. Historical Definitions

The secular is ancient and has changed in meaning over time. Its Latin derivation, *saeculum*, refers to an indefinite period of time—'a generation', 'an age', or the people of a specific era (Feeney 2008; Berman 1983). The Church father, Saint Augustine, used the term to refer to the world of time, in contradiction to the kingdom of God (Berman 1983; Perry 2017). Comprising both spirit and body, Christians were regarded as being citizens of both worlds, who divided their interests accordingly (Sabine 1973). As discussed above,[67] the term was eventually equated with a dyad distinguishing between two dimensions of existence, the religious-sacred/secular-temporal, which structured Western Christendom (Casanova 2011; Taylor 2009). This distinction manifested itself in a division between the clergy in the monasteries and those residing with the laity (Ogbu 2014). Therefore, contrary to its modern interpretation, the secular did not refer to a type of government (Ogbu 2014; Perry 2017). This is evidenced by Samuel Johnson's 1755 definition of the term as 'not spiritual; relating to the affairs of the present world; not holy; worldly ... 3. [Seculaire, Fr.] Happening or coming once in a secle or century' (Johnson 1755; see also Sheridan 1780).

Although this interpretation of the term is not directly relevant to comprehending today's secular state, it retains contemporary significance. Notably, Johnson's definition is reliant on two concepts that can be understood without reference to religion—the temporal and the worldly. The ongoing utility of this definition therefore derives from its depiction of the secular standpoint as being independent of any religious perspective for the purposes of 'learning, intellectual activities or moral conduct' (Barras 2017). This element of early definitions is replicated in subsequent English dictionaries (Garner 2004). The modern-day version of the *Oxford English Dictionary*, for instance, defines the secular as 'concerned with the affairs of this world; not monastic or ecclesiastical; not sacred; occurring once in, lasting for, age or century' (Swannell 1979).

These definitions are useful, insofar as they portray enduring consistencies in the understanding of the secular over time as a binary categorisation of reality that is independent of religious notions. Nevertheless, they offer no explanation as to how this categorisation relates to the relationship between state governments and religion. As such, this definitional approach does not illuminate any legally applicable meaning of the secular.

[67] See discussion under "Defining the Secular".

4.2. Substantive Definitions

Substantive, or essentialist, definitions of the secular posit defined features of the concept as being essential or necessary. Scholars adopting this definitional approach tend to underscore a demarcation between religion and government such that a state does not appeal to theology in exercising its authority (McLean 1995; Ahdar and Leigh 2013). However, the separation of politics (or state) and religion is a deceptively simple phrase, carrying with it various shades of meaning (Laycock 2003). The extent to which religion is a finite area separate from government and the delineation of the contours of distinction between these two realities is, therefore, a matter of intellectual dispute (Casanova 2009).

Some scholars endorse the view of religion and state as mutually exclusive areas of human existence. We term these definitions as hard separationist substantive definitions. Such definitions perceive the secular as being synonymous with a realm of experience that is neutral or, more precisely, religion-free (Frame 2009). One proponent of this strict separationism is Lord Justice Pickford, who, citing Lord Bacon, defined the secular as 'the ignoring of the supernatural as influencing human conduct, and holding out the promotion of happiness … as the chief end of man.'[68] James Wood accords with this notion of 'ignoring' the supernatural, but rationalises the separation of state and religion from a perspective of religious superiority:

> *government [in the secular state] is limited to the saeculum … the state is independent of institutional religion or ecclesiastical control and, in turn, institutional religion is independent of state or political control. It is a state that is without jurisdiction over religious affairs … because religious concerns are viewed as being too high and too holy to be subject to the prevailing fallible will of civil authorities.* (Wood 1996)

While not equating the secular with a space devoid of religion, another scholar, Abdulrasheed A Muhammad (2006), considers secular to mean '[being un]concerned with spiritual or religious affairs'. On this basis, Muhammad describes the secular state as

> *one which is established on the assumption that political authority is completely independent of religion or supernaturalism and therefore not concerned with the spiritual life of its citizens … religion is confined to private practice and individual preference. The state will not adopt any religion as official, neither will it give overt or covert recognition and assistance to any group.* (Muhammad 2006)

Implicit in these definitions is a construction of the secular as a realm of fact distinct from the realm of faith. An example of a secular-identifying state operating in this manner is Soviet-era Russia, during which the Russian Orthodox Church was severely repressed and religion was framed as a cause, not merely a symptom, of all social problems (Froese 2004).[69] In this way, the secular was envisaged as a self-enclosed reality and the ultimate impetus behind the realisation of a perfect communist society (Pospielovsky 1987).

However, it is not necessarily a requirement that secular society be irreligious, antireligious or lacking in spirituality (Frame 2009). Indeed, contrary to this polar distinction drawn between government and faith, the act of being secular can represent an attempt by the state to facilitate the freedom of religious expression (Ogbu 2014). We term these soft-separationist substantive definitions. Like hard-separationist definitions, they focus on the separation of religion from the state; however, the degree and purpose of that separation is different, with a focus on ensuring freedom of religion as opposed to ensuring the state is not harmed or contaminated by religion. By confining religion to private practice, certain secular states demonstrate religious tolerance and allow 'full freedom of … religious observances, excepting those practices which conflict with the laws of the state' (McCain 2005). In this way, a secular state identity can function to enhance religiosity. Dawkins describes this phenomenon as a paradox, whereby religion becomes a 'free enterprise' as a direct result of the legally secular configuration of the state (Dawkins 2016). Similarly, Ahdar and

[68] Bowman and Others v Secular Society Ltd. [1916-17] All ER Rep 1, 466.
[69] See also (Pospielovsky 1987; Luehrmann 2017).

Leigh outline what they describe as the 'competitive market model', whereby states seeking to maximise religiosity, religious participation and freedom of religion should exit the 'religious market' by abolishing state religions while simultaneously 'lowering the barriers to entry to newcomers' (Ahdar and Leigh 2013).

It stands to reason, therefore, that the secular state does not necessarily reside outside the faith claims existing in the given polity—societies can exhibit different relationships with religion and remain secular in nature. This notion of mutual exclusivity can also be questioned from the perspective of whether hard separationism is even achievable. In this regard, the confinement of religion to the private sphere is seemingly contrary to an absence of concern for religious affairs (Ahdar and Leigh 2013; Ogbu 2014). By avoiding action in the religious sphere, a state impliedly affirms other competing claims and methods of thinking (Ahdar and Leigh 2013; Dawkins 2016). Carl Esbeck (1997) summarises this point succinctly in his assertion that 'all models of church/state relations embody substantive choice'. Accordingly, the secular does not necessitate government neutrality towards metaphysical claims, nor does it require that morals be completely severed from law and politics.

What can be distilled from the above analysis is that the secular is not a singular concept. Although secular-identifying states can adopt a hostile position towards religion and establish strict boundaries between religious and governmental matters, the secular does not inevitably operate in this manner. However, even when a wider view is taken, as in the case of soft-separationist substantive definitions, substantive definitions may be too narrow to fully encapsulate all secular states. By asserting a uniform conception of the secular, substantive definitions fail to encapsulate its true breadth. The legal concept of the secular is manifested in diverse relationships between the state and religion, depending on constitutional and socio-political factors that are peculiar to the polity in question. The term is therefore amenable to several equally valid interpretations that are neglected by the substantive approach.

4.3. Characteristic Definitions

The 'characteristic' approach specifies particular features that are perceived as being common to many states identifying as secular. In contrast to substantive definitions, characteristic definitions accept that not all states will exhibit their secular identity in an identical manner. Rather than asserting the existence of an essential 'core' shared by all secular states, which, as the above discussion illustrates, does not exist in any event, these definitions delineate certain characteristics as being indicative of a secular state regime. In this regard, some definitions insist that states must demonstrate all specified criteria to be secular, whereas others accept general compliance.

Bilkisu Yusuf (1993) enumerates three key characteristics a state must possess to be secular. First, the absence of a state religion, owing to the separation of government and religious affairs. Second, prohibition of state support for religion, particularly the provision of government funding for religious education and activities. Third, restraint of the state from interfering in the activities of religions, including regulating their form and growth. As Yusuf portrays these features as being essential, complete compliance is required by any state to be considered secular. The US is arguably a state that exemplifies these characteristics. Notably, the First Amendment of the US Constitution prohibits government from establishing a state religion and from inhibiting the free expression of religious belief, thereby fulfilling the first and third characteristics, respectively.[70] Further, this amendment has been judicially interpreted to exclude a state or the federal government from passing any law or levying tax to support the activities or institutions of any particular religion.[71] Yusuf's second feature is therefore also satisfied. It may be questioned whether this constitutionally mandated distinction between government and reli-

[70] U.S. Const. amend. I; Everson v Board of Education, 330 U.S. 1, 15–16 (1947).

[71] *Everson*, 330 U.S. 1, 15–16 (Black J).

gion has been upheld in practice. In relation to education, for instance, in 2022 the US Supreme Court ruled against state denial of public funds earmarked for secular education to religious schools.[72] However, at least as far as its legal foundations are concerned, the prohibition of state-sponsored religious support complies with Yusuf's second criterion. In contrast, Australia's funding scheme for religious schooling evades this characteristic and,[73] consequently, is not a secular state as per Yusuf's definition. This circumstance highlights the limitations of this definition; by imposing a strict degree of compliance with the specified criteria, it falls significantly short of capturing the breadth of states identifying as secular.

Conversely, Wing and Varol (2006) accept the existence of different degrees and variants of the secular state. Proceeding from this assumption, the six attributes they identify are aspirational, and describe the archetypal secular government. In such a government 'sovereignty belongs to the nation rather than to a divine body' (Wing and Varol 2006). Secondly, separationism is imposed to the extent that that laws do not have a religious basis. Thirdly, state policy professes neutrality towards all religions, insofar that no religion is officially established or otherwise protected over others. Fourthly, education systems are based on logic as opposed to religious dogma. Fifthly, there is an enshrined right to freedom of religion and conscience. Sixthly, there is a pluralistic state–religion relationship marked by respect for all religious beliefs. The necessary degree of conformity with these criteria, however, is not clear.

In human rights decisions, the Canadian Supreme Court has also elucidated what it regards to be the cardinal features of the secular state in a manner reminiscent of the 'characteristic' approach.[74] However, in contrast to Wing and Varol, the Canadian Supreme Court takes a negative approach, defining the secular state according to what is *not* rather that what it is:

> A secular state does not—and cannot—interfere with the beliefs or practices of a religious group unless they conflict with or harm overriding public interests. Nor can a secular state support or prefer the practices of one group over those of another … it does not seek to extinguish [religious differences].[75]

This emphasis on negative freedom under a secular regime, that is, freedom of religious activities and organisations *from* governmental interference, led to the court ruling to conserve religious pluralism. Specifically, the court held that a legal requirement obliging a religious school to teach its own religious beliefs in a neutral manner violated the freedom of religion.[76]

5. Conclusions: Towards a 'Spectrum' of the Secular

As the above discussion highlights, there are significantly different understandings of the meaning of the term 'secular.' This can be demonstrated by the different ways in which states themselves understand their identity as a secular state. For example, as former President of India, Dr. Radhakrishnan (1967), explained:

> *When India is said to be a secular state, it does not mean that we reject the reality of an unseen sprit or the relevance of the religion to life or that we exalt religion. It does not mean that secularism itself becomes a positive religion or that the State assumes divine prerogatives… We hold that not one religion should be given preferential status… This*

[72] See Carson v Makin, 596 U.S. 1 (2022); for examples of the US Supreme Court granting judgements in favour of preserving personal religious observances of teachers and judges in such 'secular' institutions as public schools and courtrooms, see Kennedy v Bremerton Sch. Dist., 597 U.S. 21 (2022); Freedom From Religion Inc v Mack, 21 U.S. 20279 (2022).

[73] See the discussion under "Defining Secularism".

[74] These decisions concern the application of the *Canadian Charter of Rights and Freedoms*: see *Canada Act 1982* (UK) c 11, sch B, pt I.

[75] *Loyola High School*, 1 S.C.R. 613, [43].

[76] See *Loyola High School*, 1 S.C.R. 613, [43].

view of religious impartiality or comprehension and forbearance, has a prophetic role to play within the National and International life".

Similarly, in 1961, former Indian Prime Minister Jawaharlal Nehru commented:

We talk about a secular state in India. It is perhaps not very easy to even find a good word in Hindi for 'secular'. Some people think it means something opposed to religion. That obviously is not correct. What it means is that it is the state which honours all faith equally and gives them equal opportunities. (Jaffrelot 2021)

Here Radhakrishnan and Nehru focus on the diversity of religion within India, one of the most religiously diverse nations, and the state's role in mediating that diversity. The Indian Constitution asserts that India is secular while at the same time including numerous provisions promoting religious pluralism. Despite this, India has seen the rise of Hindu nationalism, which has been seen as a threat to secularism and plurality in the country (Jaffrelot 2021).

Conversely, French President Macron focuses on religion versus non-religion in explaining the role of *laïcité*, as he sees it, as a unifying force within the French Republic:

As I've said on several occasions, laïcité in the French Republic means the freedom to believe or not believe, the possibility of practicing one's religion as long as law and order is ensured. Laïcité means the neutrality of the State; in no way does it mean the removal of religion from society and the public arena. A united France is cemented by laïcité. If spirituality is a matter for the individual, laïcité concerns us all. (Élysée 2020)

Despite this, France is increasingly criticized for persecution of religious minorities, particularly Muslims, rather than the tolerant treatment *laïcité* would seem to imply (Degener 2020; Hargreaves 2023; Scott 2007; Robert 2004). Indeed, contrary to the liberal application of the 1905 law, analysis of state–religion dynamics in France has revealed the endurance of a system in which certain religions are better recognised than others, and the persistence of religious tensions as a result (Willaime 2005). This circumstance denotes a contrast between *laïcité* in its constitutional or legal iteration, and how it is enacted in practice.

By contrast, in 2008, Australian Prime Minister Scott Morrison claimed that Australia is 'not a secular country … [but] a nation where you have the freedom to follow any belief system' (Gregoire 2019). This is despite the fact that, in line with Section 116 of the Australian Constitution, Australia is generally accepted to be secular, or at least there is a formal separation of state and religion. Here, however, Morrison appears to be adopting a definition of the secular which requires not only a formal separation of religion but also a strict separation or even suppression of religion in the public sphere. As this brief survey shows, states with very diverse state–religion relationships claim, explicitly or implicitly, to be secular, or conversely, reject the label of secular despite ostensibly meeting criteria others claim as authenticating their secular status. Through the exercise of applying the differing definitions of the secular analysed in this paper, it can be concluded that no existing definition adequately addresses the range of possible, and actual, patterns of state–religion relations embraced by the term. This leads to several different possible conclusions. First, one could conclude that at least some states are misrepresenting their secularity and, as such, despite claims to the contrary, these states are not in fact secular. However, such a conclusion would be based upon an assumption of insincerity on the part of states and their political leaders; a charge that has been labelled against many a politician, but, we would argue, is insufficient to adequately explain the variety of states that claim to be, or are labelled by others as, secular states. Second, one could conclude that attempting to define the secular is an impossible task,[77] and even misguided (Freeman 1983), as judges have concluded with the definition of religion. However, courts around the world have been able to tackle the meaning of religion and as such we would argue that the secular too

[77] See note 2.

is capable of legal definition and application. Perhaps the answer lies in the Australian case *Church of the New Faith v Commissioner of Pay-roll Tax*[78] in which the Australian High Court came up with not one, but three definitions of religion. Perhaps the answer to defining the secular is not to seek for one definition, but for multiple to be applied contextually.

We would therefore suggest that characteristic definitions provide the widest scope for inclusion within the term secular state. Indeed, the definitional disparity surrounding the secular indicates the presence of a continuum of assorted variants of the concept, each dependent upon the circumstances and peculiarities of the state to which it is applied. Claims by a state to be secular cannot be accepted nor debunked based upon a meaning taken from another context and externally applied. Instead, the circumstance of each state must be carefully and individually examined, with the result that what is considered secular in one state may not be so in another.

The difficulty of defining the term secular, as with the difficulty of defining the term religion, does not mean that we should not seek definition. Indeed, as discussed at the outset of this commentary, the very existence of the term within constitutional and other legal documents necessitates that the term is given meaning if for no other reason than certainty of law.

Simply asserting that a state is secular cannot be enough. While self-definition and identification are important, it must be just one aspect of a state's identification as secular. We would suggest that there are states which are so entangled with religion as to fall outside the category of secular, and similarly, there are states where the antagonism towards religion is so extreme that they have moved beyond separation of state–religion to being antagonistic towards religion and consequently are no longer secular—regardless of their claims to the contrary. Analysing and defining the exact boundaries where the state crosses out of the category of the secular state is beyond the scope of this paper. What this paper has demonstrated is that the secular is multifaceted and has a multiplicity of meanings and usages. Therefore, in applying the term secular to a particular jurisdiction, the circumstances of that jurisdiction should be considered—there is not a 'one size fits all' definition. Dismissing a state's claim to be secular because it does not manifest its secular identity in the same way as another state is unhelpful. Administrators and judges interpreting constitutional and legislative provisions referring the secular must therefore be mindful of the context in which they are applying the term and be cautious of adopting a definition from another jurisdiction with a very different context. Claims to be secular must be assessed according to what the state in question means by such a claim because ultimately the answer to whether or not a given state is secular depends on what you mean (Barker 2015).

Author Contributions: Conceptualization, R.B. and G.C.; methodology, R.B. and G.C.; writing—original draft preparation, G.C.; writing—review and editing, G.C. and R.B.; supervision, R.B. All authors have read and agreed to the published version of the manuscript.

Funding: This research received no external funding.

Institutional Review Board Statement: Not applicable.

Data Availability Statement: Data are contained within the article.

Conflicts of Interest: The authors declare no conflict of interest.

References

Abbey, Ruth. 2010. A Secular Age: The Missing Question Mark. In *The Taylor Effect: Responding to a Secular Age*. Edited by Ian Leask. Cambridge: Cambridge Scholars Publishing, p. 18.

Ackerman, Bruce. 1980. *Social Justice in the Liberal State*. New Haven: Yale University Press.

Ahdar, Rex J. 2000. Worlds colliding: Aspects of New Zealand conservative Christians' encounter with the law. *Research Paper The University of Otago*, February 14, 128.

[78] *Church of the New Faith v Commissioner of Pay-roll Tax (Vic)* (1983) 154 CLR 120.

Ahdar, Rex, and Ian Leigh. 2013. *Religious Freedom in the Liberal State*, 2nd ed. Oxford: Oxford University Press.

Almond, Gabriel A. 2003. R Scott Appleby and Emmanuel Sivan. In *Strong Religion: The Rise of Fundamentalisms Around the World*. Chicago: University of Chicago Press.

Arnason, Johann P. 2003. *Civilisations in Dispute*. Leiden: Brill.

Asad, Talal. 2003. *Formations of the Secular: Christianity, Islam, Modernity*. California: Stanford University Press.

Asad, Talal. 1993. *Geneologies of Religion*. Maryland: John Hopkins University Press.

Bailey, Nathan. 1731. *An Universal Etymological English Dictionary*, 2nd ed. London: Forgotten Books.

Barker, Renae. 2022. Church of the New Faith v Commissioner of Pay-roll Taz Defining Religion for the World. In *Law and Religion in the Commonwealth: The Evolution of Case Law*. Edited by Renae Barker, Paul Babie and Neil Foster. New York: Hart, pp. 11–32.

Barker, Renae. 2015. Is Australia a Secular Country? It Depends What You Mean. *The Conversation*. May 14. Available online: https://theconversation.com/is-australia-a-secular-country-it-depends-what-you-mean-38222 (accessed on 1 May 2024).

Barker, Renae. 2021. Pluralism versus Separation: Tension in the Australian Church-State Relationship. *Religion and Human Rights* 16: 32. [CrossRef]

Barker, Renae. 2018. *State and Religion: The Australian Story*. New York: Taylor & Francis.

Barker, Renae. 2024. Rejecting Security: A Comparative Analysis of the Rejection of Security, Public Safety, and Public Order Concerns as a Ground for Restricting Freedom of Religion. In *Security, Religion, and the Rule of Law: International Perspectives*. Edited by Tania Pagotto, Joshua M. Roose and G. P. Marcar. London: Routledge, pp. 151–71.

Barras, Amélie. 2017. Secularism in France. In *The Oxford Handbook of Secularism*. Edited by Phil Zuckerman and John R. Shook. Oxford: Oxford University Press.

Baubérot, Jean. 2015. *Les sept laïcités françaises: Le modèle français n'éxiste pas*. Paris: Éditions de la maison des sciences de l'homme, pp. 17–18.

Baubérot, Jean. 2013. Sécularisation, laïcité, laïcisation. *Empan* 90: 31. [CrossRef]

Beckford, James A. 1993. Secularization and its Discontents. *Scriptura* 12: 1. [CrossRef]

Beckford, James A. 2012. SSSR Presidential Address Public Religions and the Postsecular: Critical Refections. *Journal for the Scientific Study of Religion* 51: 1–19. [CrossRef]

Benson, Iain. 2000. Notes Towards a (Re)Definition of the Secular. *University of British Columbia Law Review* 33: 530.

Berman, Harold J. 1983. *Law and Revolution–The Formation of the Western Legal Tradition*. Cambridge: Harvard University Press, p. 109.

Beyer, Peter. 2006. *Religions in Global Society*. Milton Park: Routledge.

Blankholm, Joseph. 2014. The Political Advantages of a Polysemous Secular. *Journal for the Scientific Study of Religion* 53: 775. [CrossRef]

Bogdanor, Vernon. 1995. *The Monarchy and the Constitution*. Oxford: Clarendon Press, p. 228.

Bradney, Anthony. 2010. Religion and the Secular State in the United Kingdom. In *Religion and the Secular State: Interim Reports*. Edited by Cole Durham and Javier Martinez-Torron. Provo: International Centre for Law and Religious Studies, p. 737.

Bryne, Cathy. 2014. *Religion in Secular Education: What, in Heaven's Name, are we Teaching our Children?* Leiden: Brill, p. 212.

Cantwell Smith, Wilfred. 1963. *The Meaning and End of Religion*. New York: Macmillan.

Casanova, José. 2003. Beyond European and American Exceptionalism. In *Predicting Religion*. Edited by Grace Davie, Paul Heelas and Linda Woodhead. Farnham: Ashgate, p. 17.

Casanova, José. 1994. *Public Religions in the Modern World*. Chicago: University of Chicago Press.

Casanova, José. 2008. Public Religions Revisited. In *Religion: Beyond a Concept*. Edited by Hent de Vires. New York: Fordham University Press.

Casanova, José. 1999. The Sacralization of the Humanum: A Theology for a Global Age. *International Journal of Politics, Culture and Society* 13: 21. [CrossRef]

Casanova, José. 2009. The Secular and Secularisms. *Social Research* 76: 1050. [CrossRef]

Casanova, José. 2011. The Secular, Secularizations, Secularisms. In *Rethinking Secularism*. Edited by Mark Juergensmeyer and Jonathan VanAtwerpen. Oxford: Oxford University Press, pp. 54–55.

Casanova, José. 2002. Rethinking Secularisation: A Global Comparative Perspective. *Hedgehog Review* 8: 7.

Chavura, Stephen, and Ian Tregenza. 1996. The Secular Settlement. 273, quoted in Michael Feeden. In *Ideologies and Political Theory: A Conceptual Approach*. Oxford: Clarendon.

Chirac, Jacques. 2003. Discours de M. Jacques Chirac, Président de la République, sur le respect du principe de laïcité dans la République, Paris le 17 Décembre 2003. Élysée. Available online: https://www.elysee.fr/jacques-chirac/2003/12/17/discours-de-m-jacques-chirac-president-de-la-republique-sur-le-respect-du-principe-de-laicite-dans-la-republique-paris-le-17-decembre-2003 (accessed on 17 December 2003).

Cox, Harvey. 1965. *The Secular City*. New York: MacMillan Publishing Co.

Dane, Perry. 2018. Establishment and Encounter. In *Research Handbook on Law and Religion*. Edited by Rex Adhar. Cheltenham: Edward Elgar Publishing Limited, p. 125.

Dawkins, Richard. 2016. *The God Delusion*. Cambridge: Black Swan, p. 62.

Dawkins, Richard. 1993. Viruses in the Mind. In *Dennett and His Critics: Demystifying Mind*. Edited by Bo Dahlbohm. New Jersey: Blackwell Publishers, p. 13.

de Vries, Hent. 2008. Religion: Beyond a Concept. New York: New York University Press.
Degener, Lauren. 2020. A Failure of Laïcité: Analyzing the Ongoing Discrimination of French-Muslims in the 21st Century. *International ResearchScape Journal* 7: 1. [CrossRef]
Durham, W. Cole, Jr., and Brett. G. Scharffs. 2010. *Law and Religion: National, International and Comparative Perspectives*. Frederick: Aspen Publishers, p. 40.
Durham, W. Cole, and Elizaveth. A. Sewell. 2006. Definition of Religion. In *Religious Organizations in the United States: A Study of Identity, Liberty, and the Law*. Edited by James. A. Serritella. Durham: Carolina Academic Press, p. 3.
Durkheim, Emile. 1993. *The Division of Labor in Society*. Los Angeles: The Free Press, pp. 131, 181.
Durkheim, Emile. 1995. *The Elementary Forms of the Religious Life*. Los Angeles: The Free Press.
Esbeck, Carl. 1997. A Constitutional Case for Governmental Cooperation with Faith-based Social Service Providers. *Emory Law Journal* 46: 5.
Élysée. 2020. Fight Against Separatism—The Republic in Action: Speech by Emmanuel Macron, President of the Republic, on the Fight Against Separatism. Available online: https://www.elysee.fr/en/emmanuel-macron/2020/10/02/fight-against-separatism-the-republic-in-action-speech-by-emmanuel-macron-president-of-the-republic-on-the-fight-against-separatism (accessed on 10 October 2020).
Feeney, Denis. 2008. *Caesar's Calendar: Ancient Time and the Beginnings of History*. Los Angeles: University of California Press, p. 145.
Frame, Tom. 2009. *Losing My Religion: Unbelief in Australia*. Sydney: University of NSW Press.
Freeman, George. C. 1983. The Misguided Search for the Constitutional Definition of "Religion". *71 Georgetown Law Journal* 71: 1519.
Froese, Paul. 2004. Forced Secularization in Soviet Russia: Why an Atheistic Monopoly Failed. *Journal for the Scientific Study of Religion* 43: 40. [CrossRef]
Garner, Bryan A., ed. 2004. *Black's Law Dictionary*, 8th ed. Eagan: West Publishing Co., p. 1383.
Grabb, Edward. 1990. *Theories of Social Inequality: Classical and Contemporary Perspectives*, 2nd ed. New York: Holt, Rinehart and Winston, p. 81.
Gregoire, Paul. 2019. A PM's Faith Shouldn't Be Steering a Secular Nation. *Sydney Criminal Lawyers*. Available online: https://www.sydneycriminallawyers.com.au/blog/a-pms-faith-shouldnt-be-steering-a-secular-nation/ (accessed on 13 May 2019).
Griffiths, David H. 2011. Defining the 'Secular' in the New Zealand Bill of Rights Era: Some Cases and Controversies. *Otago Law Review* 12: 497.
Gülalp, Haldun. 2010. Secularism and the European Court of Human Rights. *European Public Law* 16: 455. [CrossRef]
Habermas, Jürgen. 2008. *Between Naturalism and Religion*. Cambridge: Polity.
Habermas, Jürgen. 2002. *Religion and Rationality: Essays on Reason, God and Morality*. Cambridge: MIT Press.
Habermas, Jürgen. 1989. *The Structural Transformation of the Public Sphere*. Cambridge: MIT Press.
Habermas, Jürgen. 1987. *The Theory of Communicative Action*. Boston: Beacon Press. First published 1984.
Hargreaves, Alec G. 2023. Lop-Sided Laws: French Muslims and *Laïcité*. *Contemporary French and Francophone Studies* 27: 171–84. [CrossRef]
Hastings, Adrian. 1976. *The Faces of God: Reflections on Church and Society*. Virginia: Orbis Books.
Holdsworth, W. S. 1920. The State and Religious Nonconformity: An Historical Retrospect. *Law Quarterly Review* 26: 340.
How Are Schools Funded in Australia? 2021. Department of Education, Skills and Employment. Available online: https://www.education.gov.au/download/3774/how-are-schools-funded-australia/26806/how-are-schools-funded-australia/pdf (accessed on 12 May 2021).
Hurd, Elizabeth Shakman. 2008. *The Politics of Secularism in International Relations*. New Jersey: Princeton University Press.
Ireland, Rowen. 1988. *The Challenge of Secularisation*. Collins Drove.
Jaffrelot, Christophe. 2021. *Modi's India: Hindu Nationalism and the Rise of Ethnic Democracy*. Translated by Cynthis Schoch. Princeton: Princeton University Press, p. 8.
Jansen, Yolande. 2013. *Secularism, Assimilation and the Crisis of Multiculturalism*. Amsterdam: Amsterdam University Press.
Johnson, Samuel. 1755. *A Dictionary of the English Language*. Minneapolis: Consortium.
Kippenberg, Hans. 2007. *Discovering Religious History in the Modern Age*. New Jersey: Princeton University Press.
Kosmin, Barry A., and Ariela Keysar. 2007. *Secularism & Secularity: Contemporary International Perspectives*. Hartford: Institute for the Study of Secularism in Society and Culture, p. 11.
Laycock, Douglas. 2003. The Many Meanings of Separation. *University of Chicago Law Review* 70: 1667. [CrossRef]
Lefebvre, Solange. 1998. Origines et actualité de la laïcité. *Theologiques* 6: 63. [CrossRef]
Lobeira, Pablo Cristóbal Jiménez. 2014. Veils, Crucifixes and the Public Sphere: What Kind of Secularism? Rethinking Neutrality in a Post-Secular Europe. *Journal of Intercultural Studies* 385: 386–89.
Losing our religion. 2019. StatsNZ. Available online: https://www.stats.govt.nz/news/losing-our-religion/ (accessed on 3 October 2019).
Luehrmann, Sonja. 2017. Soviet Atheism and Its Aftermath. In *The Oxford Handbook of Secularism*. Edited by Phil Zuckerman and John R. Shook. Oxford: Oxford University Press, p. 231.
Martin, David. 2005. *On Secularization: Towards a Revised General Theory*. Hampshire: Aldershot, pp. 187–88.
Mazusawa, Tomoko. 2005. *The Invention of World Religions*. Chicago: University Chicago Press.

McCain, Danny. 2005. Which Road Leads Beyond the Shari'ah Controversy? A Christian Perspective on Shari'ah in Nigeria. In *Comparative Perspectives on Shari'ah Law in Nigeria*. Edited by Philip Ostien, Jamila M Nasir and Franz Kogelmann. Ibadan: Spectrum Books Limited.

McCutcheon, Russel. 1982. *Manufacturing Religion*. Oxford: Oxford University Press.

McLean, Iain. 1995. *Oxford Concise Dictionary of Politics*. Oxford: Oxford University Press, p. 426.

Muhammad, Abdulrasheed A. 2006. The State and Religious Balancing in Nigeria. *Nigerian Forum: A Journal of Opinion on World Affairs* 27: 294.

Naskar, Abhijit. 2020. *Mad about Humans: World Maker's Almanac*, Neuro Cookies.

Ogbu, Osita N. 2014. Is Nigeria a Secular State?—Law, Human Rights and Religion in Context. *Transnational Human Rights Review* 1: 3. [CrossRef]

Perry, John Michael. 2017. Anglo-American Secular Government. In *Oxford Handbook of Secularism*. Edited by Phil Zuckerman and John Shook. Oxford: Oxford University Press, pp. 125–41.

Portier, Phillipe. 2018. *L'état et les Religions en France: Une Sociologie Historique de la Laïcité*. Rennes: Presses universitaires de Rennes, pp. 243–97.

Portier, Phillipe. 2023. La CIASE, l'Église et l'État: Une réflexion sur la pratique française de la laïcité. *Revue du droit des religions* 15: 13. [CrossRef]

Pospielovsky, Dmitry V. 1987. *A History of Soviet Atheism in Theory and Practice, and the True Believer*. New York: St. Martin's Press, p. 26.

Quack, Johannes. 2017. Identifying (with) the Secular: Description and Geneaology. In *The Oxford Handbook of Secularism*. Edited by Phil Zuckerman and John R. Shook. Oxford: Oxford University Press, p. 21.

Radhakrishnan, Sarvepalli. 1967. *Recovery of Faith*. Delhi: Hind Pocket Books (P) Ltd., p. 184.

Rawls, John. 2009. *A Brief Inquiry into the Meaning of Sin and Faith, with "On My Religion"*. Cambridge: Harvard University Press.

Rawls, John. 1971. *A Theory of Justice*. Cambridge: Harvard University Press.

Religious affiliation in Australia. 2022. Australian Bureau of Statistics. Available online: https://www.abs.gov.au/articles/religious-affiliation-australia (accessed on 4 July 2022).

Rivers, Julian. 2012. The Secularisation of the British Constitution. *Ecclesiastical Law Journal* 14: 371. [CrossRef]

Robert, Jacques. 2004. *La fin de la laïcité*. Paris: Odile Jacob, pp. 126, 135.

Sabine, George H. 1973. *A History of Political Theory*. Oxford: Oxford & IBH Publishing Co Pty Ltd., p. 184.

Sandberg, Russell. 2014. *Religion, Law and Society*. Cambridge: Cambridge University Press, pp. 56–57.

Scott, Joan W. 2007. *The Politics of the Veil*. New Jersey: Princeton University Press.

Sheridan, Thomas. 1780. *A General Dictionary of the English Language*. London: Forgotten Books.

Smart, Ninian. 1992. *The World's Religions*. Cambridge: Cambridge University Press, p. 25.

Smith, Jonathon Z. 1988. Religion, Religions, Religious. In *Critical Terms for Religious Studies*. Edited by Mark C. Taylor. Chicago: University of Chicago Press, pp. 269–84.

Stasi, Bernard. 2003. *Rapport au Président de la République*. Paris: Commission de réflexion sur l'application du principe de laïcité dans la République.

State, S. A. 2013. The religious and the secular in the work of Thomas Hobbes. In *Religion, Secularization and Political Thought: Thomas Hobbes to J. S. Mill*. Edited by James E. Crimmins. Milton Park: Routledge, p. 17.

Swannell, Julia, ed. 1979. *The Little Oxford Dictionary of Current English*, 5th ed. Oxford: Clarendon Press, p. 524.

Taylor, Charles. 2007. *Secular Age*. Massachusetts: Harvard University Press.

Taylor, Charles. 2009. The polysemy of the secular. *Social Research* 76: 1143. [CrossRef]

Temperman, Jeroen. 2010. *State-Religion Relationships and Human Rights Law: Towards a Right to Religiously Neutral Governance*. Leiden: Brill.

Tilly, Charles. 1984. *Big Structures, Large Processes, Huge Comparisons*. Manhattan: Russel Sage, p. 43.

van Deer, Peter. 2007. *Imperial Encounters*. New Jersey: Princeton University Press.

Weber, Max. 1958. *The Protestant Ethic and the Spirit of Capitalism*. New York: Charles Scribner's Sons.

Wieseltier, Leon. 1991. Two Concepts of Secularism. In *Isaiah Berlin: A Celebration*. Edited by Isaiah Berlin, Edna Ullmann-Margalit and Avishai Margalit. Chicago: The University of Chicago Press, p. 86.

Willaime, Jean-Paul. 2005. 1905 et la pratique d'une laïcité de reconnaissance sociale des religions. *Archives de sciences sociales des religions* 129: 1. [CrossRef]

Wilson, Bryan. 1987. Secularization. In *The Encyclopedia of Religion*. Edited by Mircea Eliade. New York City: MacMillan Publishing Co., p. 160.

Wing, Katherine A., and Ozan O. Varol. 2006. Is Secularism Possible in a Majority-Muslim State? The Turkish Example. *Texas International Law Review* 42: 5–6.

Witte, Johen, Jr., and Andrea Pin. 2021. Faith in Strasbourg and Luxembourg? The Flesh Rise of Religious Freedom Litigation in the Pan European Courts. *Emory Law Journal* 70: 587–662.

Wood, James E., Jr. 1996. An Apologia for Religious Human Rights. In *Religious Human Rights in Global Perspective: Religious Perspectives*. Edited by James E. Wood, Jr. New York: Springer.

Yusuf, Bilkisu. 1993. Da'wa and Contemporary Challenges Facing Muslim Women in Secular States—A Nigerian Case Study. In *Islam in Africa: Proceedings of the Islam in Africa Conference*. Edited by Nur Alkali. Ibadan: Spectrum Books, p. 279.
Zucca, Lorenzo. 2013. Lautsi: A Commentary on a decision by the ECtHR Grand Chamber. *International Journal of Constitutional Law* 11: 218. [CrossRef]

Disclaimer/Publisher's Note: The statements, opinions and data contained in all publications are solely those of the individual author(s) and contributor(s) and not of MDPI and/or the editor(s). MDPI and/or the editor(s) disclaim responsibility for any injury to people or property resulting from any ideas, methods, instructions or products referred to in the content.